

## **Emergency Custody Orders (ECOs)**

**SB260/HB478** (After July 1, refer to: <http://law.lis.virginia.gov/vacode>)

- The maximum duration of an emergency custody order (ECO) has been changed from 4 to 8 hours [see §§16.1-340.G., H. and K. (minors), the first paragraph of 19.2-182.9 (NGRI acquittees on conditional release), and 37.2-808.G., H., and K. (adults)].
  - This includes 'paperless' ECOs.
  - There are no extensions of the ECO period (previously 4+possibly 2 hour extension).
- State hospitals and CSBs may continue to seek an alternative temporary detention facility for an additional four hours following admission of anyone who is admitted because a suitable alternative facility could not be found by the time the 8 hour emergency custody period expired [see §§16.1-340.M. (minors) and 37.2-808.N. (adults)]. The alternative facility must be willing, and able to provide appropriate care. A third enactment clause will cause these provisions to expire on June 30, 2018.
  - Note also: **HB1172** allows a transfer of the TDO to the alternative facility at any point during the temporary detention period, but the determination of appropriateness of the alternative facility must be made regarding the security, medical, or behavioral health needs of the person.
  - The CSB must provide notice to the clerk of the name and address of the alternative facility.
- The law officer who executes an ECO is required to notify the appropriate community services board (CSB) responsible for conducting the evaluation of the execution of the order as soon as practicable after taking the person into custody [(see §§16.1-340.I. (minors) and 37.2-808.L.(adults)].
- An adult taken into emergency custody or temporary detention must be given a written explanation of the process and statutory protections associated with those procedures (see §§37.2-808.L. and 37.2-809.E.).

## **Transportation**

**HB1172** (After July 1, refer to: <http://law.lis.virginia.gov/vacode>)

- In determining the primary law enforcement agency to provide transportation, the magistrate shall specify in the TDO the law enforcement agency of the jurisdiction where the person resides or any other willing law enforcement agency that has agreed to provide transportation. (**HB 323**)
- If law enforcement or an alternative transportation provider has custody of the person when the change is made, the individual shall be transported to alternative facility.
- If individual has been transported to initial TDO facility, CSB shall request the magistrate to enter an order specifying an alternative transportation provider or, if there is no alternative transportation provider, the local law enforcement agency where the person resides or is located if the 50-mile rule is applicable.

## **Temporary Detention Orders (TDOs)**

**SB260/HB293** (After July 1, refer to: <http://law.lis.virginia.gov/vacode>)

- The maximum period of temporary detention prior to a hearing is extended from 48 hours to 72 hours [see §§19.2-169.6.A.2. (jail inmates), the first paragraph of 19.2-182.9 (NGRI acquittees on conditional release), and 37.2-809.H., and 37.2-814.A. (adults)].
- CSBs are required to notify the primary state hospital serving the CSB's area when an emergency custody evaluation is needed. State hospitals are required to admit any individual for temporary detention who is not admitted to an alternative treatment facility prior to the expiration of the emergency custody period [see §§16.1-340.1.D. and 16.1-340.1:1 (minors), and §§37.2-809.E. and 37.2-809.1 (adults)].
  - There are no exceptions to this requirement.
  - Upon completion of the evaluation, the CSB shall provide information about the individual to the state facility to allow it to determine the services the individual will require on admission.

- If the state facility finds an alternative facility, it shall notify the CSB and the CSB shall designate the alternative facility on the preadmission screening report.
- A state facility shall not fail or refuse to admit an individual who meets the criteria for a TDO unless an alternative facility agrees to accept the individual. The state facility shall be indicated on the TDO. An individual who meets the criteria for a TDO shall not be released

### **Acute Psychiatric Bed Registry**

**SB260/HB1232** (After July 1, refer to: <http://law.lis.virginia.gov/vacode>)

- DBHDS shall operate a web-based statewide acute psychiatric bed registry to provide real-time information on acute bed availability in public and private inpatient psychiatric facilities and residential crisis stabilization units to facilitate identification and designation of facilities for temporary detention of individuals who meet the TDO criteria (see §37.2-308.1). CSBs, inpatient psychiatric facilities, public and private residential crisis stabilization units, and health care providers working in an emergency room of a hospital or clinic or other facility rendering emergency medical care may access the bed registry.

### **Mandatory Outpatient Treatment (MOT)**

**HB574 /SB439** (After July 1, refer to: <http://law.lis.virginia.gov/vacode>)

- The period of custody to perform an exam required for court review of a mandatory outpatient treatment (MOT) plan is changed from 4 hours to 8 hours [see §§16.1-345.4.B. (minors) and 37.2-817.2.B. (adults)].
- The CSB responsible for monitoring the MOT plan is required to acknowledge receipt of the MOT order within 5 business days (previously no timeline) and requires the CSB to which a court has transferred MOT jurisdiction to acknowledge the transfer within five business days (previously no acknowledgement was required).

### **Commitment Hearing**

#### **• Gun Ownership**

**SB260/HB574/SB439** (After July 1, refer to: <http://law.lis.virginia.gov/vacode>)

- When a judge informs the individual of his right to apply for voluntary admission and advises him that if he chooses to be voluntarily admitted he will be prohibited from possessing or purchasing a gun, the judge must now advise the individual that he will also be prohibited from transporting a gun. This is consistent with § 18.2-308.1:3.

#### **• Filing Orders with the Clerk of the Court**

**HB743/SB576** (After July 1, refer to: <http://law.lis.virginia.gov/vacode>)

- Judge or special justice shall file orders from a commitment hearing for involuntary admission, MOT, or voluntary admission after a TDO with the clerk as soon as practicable but no later than COB on the next business day following completion of the hearing